

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15610 of 2005

Between:

1. Mohd. Khursheed, s/o Hajijan Mohammad, aged about 65
years, R/o H.No. 12-11-320/1, Warasiguda, Secunderabad.

2. D.Vijaya Lakshmi, w/o late D.Venkateshwarloo, aged about 55
years, R/o H.No. 12-11-320, Warasiguda, Secunderabad.

3. Yadaiah, s/o late Venkata Rajaiah, aged about 45 years,
R/o H.No. 12-11-730 to 733, Warasiguda, Secunderabad.

4. D.Muthyalu, S/o late Sri D. Narayana, aged about 71 years,
R/o H.No. 12-11-319/1 to 4, Warasiguda, Secunderabad.

5.Rajamallu, s/o late G. Veeraiah, aged about 35 years,
R/o H.No. 12-11-729, Warasiguda, Secunderabad.

6. R. Krishna Murthy, s/o Hanumaiah, aged about 70 years,
R/o H.No. 12-11-734 to 737, Warasiguda, Secunderabad

7. G. Saibaba, s/o late Agaiah, aged about 45 years,
R/o H.No. 12-11-739, Warasiguda, Secunderabad.

8. Saikumar, S/o Gopal, aged about 35 years, R/o H.No. 12-11-
590/115, Warasiguda, Secunderabad.

9. Smt. Sulochana, w/o Ramchandra Reddy, aged about 45 years
R/o H.No.12-10-590/116, Warasiguda, Secunderabad.

10. B.Yadamma, w/o Sathaiah, aged about 65 years,
R/o H.No. 12-11-322, Warasiguda, Secunderabad.

11. P.Venkat Rao, s/o Veeraiah, aged about 50 years,
R/o H.NO.12-11-740, Warasiguda, Secunderabad.

12. Ashok Kumar, s/o Jaikishan, aged about 45 years,
R/o H.No. 12-11-318 and 318/1, Warasiguda, Secunderabad

13. C. Dharmaiah, s/o Agaiah, aged about 40 years,
R/o H.No.12-11-92, Warasiguda, Secunderabad.

14. G. Mohan, s/o Gangaram, aged about 48 years,
R/o H.No. 14-7-05, Bhulakshmi temple, Warasiguda, Secunderabad.

15. A. Rama Rao, s/o late A. Veeraswamy, aged 45 years
R/o H.No. 12-11-590/117, Warasiguda, Secunderabad.

16. B.K. Mallesh, S/o Kanakaiah, aged about 54 years,
R/o H.No. 12-11-920, Warasiguda, Secunderabad.

..... PETITIONERS

AND

1.Municipal Corporation of Hyderabad rep. By its
Commissioner, Tank Bund, Hyderabad.

2. Additional Commissioner, Secunderabad Division,
Municipal Corporation of Hyderabad at Secunderabad.

3.Chief Town Planning Officer, Municipal Corporation of Hyderabad,
Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ declaring that the action of the respondents in proposing to construct a road island circle with 280' Diameter at Warasiguda Chowrastha, Secunderabad, is arbitrary and irrational and consequently direct the respondents to forbear from consuming the house properties of the petitioners at Warasiguda, Secunderabad for the said purpose of construction of road island circle at Warasiguda Chowrastha or for road widening of Sitaphalmandi-Warasiguda-Boudhanagar road widening, without following the procedure contained in Section 147 of the Hyderabad Municipal Corporation Act read with Land Acquisition Act, 1894 and payment of compensation amount at market value to the petitioners .

Counsel for the Petitioner:MR.V.VENKATARAMANA

Counsel for the Respondents : SMT.G.JYOTHI KIRAN

The Court made the following :

THE HONOURABLE SRI JUSTICE ELIPE DHARMA RAO

W.P.NO. 15610 OF 2005

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ORDER:

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1. This writ petition is filed to declare the action of the respondents in proposing to construct a road island circle with 280' diameter at Warasiguda Chowrasta, Secunderabad as illegal and in contravention of Section 147 of HMC Act.
2. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents-Municipal Corporation.
3. The learned counsel for the petitioners contended that the petitioners are the absolute owner of the residential houses situated at Warasiguda, Secunderabad and they have been in possession and enjoyment for the last 60 years and they have not encroached any Government site. It is his further contention that without initiating land acquisition proceedings, and without issuing any notice, the respondents are trying to demolish their houses in the process of road island circle.
4. On the other hand, the learned counsel for the respondents contended that on mere apprehension only the petitioners filed this writ petition, and the respondents have not taken any steps for demolition of the houses of the petitioners.
5. The Division Bench of this Court in ***P.Lakshmana Rao v. Executive Officer*** issued certain guidelines to be followed by the authorities in acquiring the properties of public for the purpose of widening roads. When a property is required for public purpose viz., for widening of roads or for any other purpose, the authorities straightaway cannot take the law into their hands and jump into the premises and attempt to evict the occupants or dispossess them or demolish their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanations, the authorities

shall pass appropriate orders, if necessary.

6. Following the guidelines issued by this Court in the above referred judgment, I deem it appropriate to dispose of the writ petition with a direction to the respondents not to take any steps for demolition of the houses of the petitioners without following due procedure, without initiating land acquisition proceedings and without making any negotiations with the petitioners.

7. The Writ Petition is, accordingly, disposed of. No order as to costs.

Elipe Dharma Rao,J.

Dated:19.07.2005

Note:

Issue CC in two days

B/o

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner,Municipal Corporation of Hyderabad
Tank Bund, Hyderabad.

2. Additional Commissioner, Secunderabad Division,

Municipal Corporation of Hyderabad at Secunderabad.

3.Chief Town Planning Officer, Municipal Corporation of Hyderabad,
Hyderabad.

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THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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19th JULY, 2005.